

## **SECTION 0400 - RAIL INDUSTRIAL ACCESS PROGRAM**

### **19A NCAC 06B .0401      DEFINITION OF PROGRAM**

For purposes of this Subchapter, the following definitions shall apply:

- (1) The term "Rail Industrial Access Program" or "RIAP" means the Department of Transportation program which provides funding to cover a portion of the costs of constructing or rehabilitating railroad industrial access tracks to serve a new or expanded industry.
- (2) "Department" means the North Carolina Department of Transportation.
- (3) "Grantee" means the entity which receives a RIAP grant from DOT.
- (4) "Project" means the construction of a railroad track and related facilities under the RIAP.

*History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);  
Eff. April 30, 1997;  
Amended Eff. April 1, 1999.*

### **19A NCAC 06B .0402      IDENTIFYING INFORMATION**

Information related to RIAP may be obtained from:

Director, Rail Division  
NC DOT  
PO Box 25201  
1 South Wilmington Street  
Raleigh, NC 27611  
Telephone 919-733-4713

*History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);  
Eff. April 30, 1997.*

### **19A NCAC 06B .0403      ELIGIBLE GRANTEES**

The following organizations shall be eligible to apply for Rail Industrial Access Funding:

- (1) Municipal and county governments;
- (2) Non-profit or for-profit community development organizations;
- (3) Railroads; and
- (4) Industries.

*History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);  
Eff. April 30, 1997.*

### **19A NCAC 06B .0404      ELIGIBLE COSTS**

Costs eligible for RIAP funding are as follows:

- (1) Reasonable engineering costs;
- (2) Site preparation, including necessary grading and drainage to construct track(s);
- (3) Track construction;
- (4) Switches; and
- (5) Grade crossings and signals.

*History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);  
Eff. April 30, 1997;  
Amended Eff. April 1, 1999.*

**19A NCAC 06B .0405 INELIGIBLE COSTS**

Costs which are not eligible for RIAP program costs are as follows:

- (1) Relocation of utilities;
- (2) Acquisition of rights of way; and
- (3) Rail dock.

*History Note:* Authority G.S. 136-44.36; 143B-350(f) and (g);  
Eff. April 30, 1997;  
Amended Eff. April 1, 1999.

**19A NCAC 06B .0406 APPLICATION**

Candidates for RIAP funding shall complete and submit a funding application to the Department of Transportation. Copies of the application may be obtained from:

Director, Rail Division  
North Carolina Department of Transportation  
PO Box 25201  
1 South Wilmington Street  
Raleigh, NC 27611  
Telephone 919-733-4713

*History Note:* Authority G.S. 136-44.36; 143B-350(f) and (g);  
Eff. April 30, 1997.

**19A NCAC 06B .0407 COUNTY AND CITY CERTIFICATION**

An applicant shall provide a certified copy of the resolution of support from the county and city government (if applicable) to the Department. An interim letter of support may be accepted pending receipt of a formal resolution.

*History Note:* Authority G.S. 136-44.36; 143B-350(f) and (g);  
Eff. April 30, 1997.

**19A NCAC 06B .0408 REQUIRED EASEMENT CERTIFICATIONS**

A property easement certification shall be provided by the applicant with the completed application that provides written assurance that all required easements have or will be obtained.

*History Note:* Authority G.S. 136-44.36; 143B-350(f) and (g);  
Eff. April 30, 1997.

**19A NCAC 06B .0409 INDUSTRY CERTIFICATION**

The industry shall certify that it will provide the jobs and rail traffic (annual carloads) indicated in the project application.

*History Note:* Authority G.S. 136-44.36; 143B-350(f) and (g);  
Eff. April 30, 1997;  
Amended Eff. April 1, 1999.

#### **19A NCAC 06B .0410 APPLICATION EVALUATION**

The Department shall evaluate the following when recommending rail projects to the Board of Transportation for approval:

- (1) Employment created in first two years;
- (2) Capital investment in first two years;
- (3) Annual rail traffic;
- (4) Whether the project is located in a county designated as distressed by the North Carolina Department of Commerce as defined in G.S. 105-130.40(c) or G.S. 105-151.17(c);
- (5) Whether the project is served by a shortline railroad; and
- (6) Impact on local or regional income or economic development.

*History Note:* Authority G.S. 105-130.40(c); 105-151.17(c); 136-44.36; 143B-350(f) and (g);  
Eff. April 30, 1997;  
Amended Eff. April 1, 1999.

#### **19A NCAC 06B .0411 ALLOCATION OF FUNDING**

(a) After evaluation of public benefits, including new employment and capital investment and funding available, the Department may award up to a maximum 50% of total project costs. Except as provided in Paragraph (b) of this Rule, a project shall receive no more than 20% of the annual budgeted funding for the RIAP in any fiscal year.

(b) The North Carolina Board of Transportation may approve funding above the maximum for individual projects based on the following criteria:

- (1) Comparison of project costs, benefits, and grantee resources; and
- (2) Availability of funding.

*History Note:* Authority G.S. 136-44.36; 143B-350(f) and (g);  
Eff. April 30, 1997.

#### **19A NCAC 06B .0412 PROCUREMENTS**

*History Note:* Authority G.S. 136-44.36; 143-129; 143B-350(f) and (g);  
Eff. April 30, 1997;  
Repealed Eff. April 1, 1999.

#### **19A NCAC 06B .0413 REQUESTS FOR REIMBURSEMENT**

(a) Upon execution of the Grant Agreement, the Grantee may be required to submit periodic progress reports to the Department until the project tracks are completed.

(b) The Department shall not reimburse the Grantee for eligible expenses until the Department verifies completion of the project tracks, the railroad certifies that it has used the project tracks, or the Department confirms that the railroad has used the project tracks.

(c) The Grantee shall submit one itemized request for reimbursement to the Department upon completion of project work at the following address:

Grants Administrator  
Rail Industrial Access Program  
North Carolina Department of Transportation  
PO Box 25201  
1 South Wilmington Street  
Raleigh, NC 27611

(d) The Department shall examine the request for reimbursement to verify that the costs were necessary to accomplish the project.

*History Note:* Authority G.S. 143B-350(f) and (g);  
Eff. April 30, 1997;  
Amended Eff. April 1, 1999.

#### **19A NCAC 06B .0414     RETAINAGE**

*History Note:*     Authority G.S. 143B-350(f) and (g);  
                         Eff. April 30, 1997;  
                         Repealed Eff. April 1, 1999.

#### **19A NCAC 06B .0415     OWNERSHIP AND MAINTENANCE RESPONSIBILITY**

- (a) Once constructed, all rail industrial access tracks shall be owned by the Grantee or by the industry served.
- (b) After construction, the track owner shall be responsible for maintaining the project tracks.

*History Note:*     Authority G.S. 136-44.36; 143B-350(f) and (g);  
                         Eff. April 30, 1997.

#### **19A NCAC 06B .0416     REPORTING REQUIREMENTS**

The grant recipient shall report to the Department as follows:

- (1) After each of the first two years following completion, the grant recipient shall provide information verifying the industry's employment as indicated in the project application and industry certification;
- (2) For the first five years following project completion, the grant recipient shall provide verification of the industry's rail use as indicated in the project application and industry certification.

*History Note:*     Authority G.S. 136-44.36; 143B-350(f) and (g);  
                         Eff. April 30, 1997.

#### **19A NCAC 06B .0417     REPAYMENT**

- (a) If within five years the project tracks are abandoned, relocated, or sold without the consent of the Department, the track owner shall repay the Department the state's contribution to the cost of construction and materials.
- (b) The Grantee may also be required to repay the Department if:
  - (1) During the first five years rail use falls below the goal levels specified in the industry certification;
  - (2) Job goals (as specified in the industry certification) for the first two years are not met.

*History Note:*     Authority G.S. 136-44.36; 143B-350(f) and (g);  
                         Eff. April 30, 1997;  
                         Amended Eff. April 1, 1999.

#### **19A NCAC 06B .0418     GRANT AGREEMENT**

- (a) Upon grant approval by the Board of Transportation, the Grantee shall enter into a Grant Agreement with the Department of Transportation specifying the terms and conditions of the RIAP grant.
- (b) The Grantee shall not be eligible for reimbursement until a Grant Agreement has been fully executed by both the Grantee and the Department.

*History Note:*     Authority G.S. 136-44.36; 143B-350(f) and (g);  
                         Eff. April 1, 1999.